

* OFFER *

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August 28, 2023

Via ECF

Hon. James B. Clark III, USMJ
U.S. District Court for the District of New Jersey
Martin Luther King Building & U.S. Courthouse
50 Walnut St.
Newark, New Jersey 07102

**Re: LiveUniverse, Inc. v. Muijrers
Civil Action No. 22-4918**

Dear Judge Clark:

This office represents Techie Hosting, Inc. and Wayne Anastasia in connection with the above-referenced matter.¹ We write concerning Plaintiff LiveUniverse, Inc.'s August 27, 2023 proposed, redlined Amended Complaint. (ECF No. 56.)

The submission contravenes Your Honor's August 21, 2023 Letter Order in two ways. First, the submission is untimely as it was filed two-days after Your Honor's August 25, 2023 deadline. (*See* ECF No. 55.) Second, despite Your Honor's instruction, the proposed Amended Complaint does not comply with Local Civil Rule 15.1. (*Id.*) Plaintiff's August 27, 2023 proposed Amended Complaint adds ninety-three new, substantive allegations that were not included in the proposed Amended Complaint that Plaintiff filed with its Opposition to Defendants' Motions to Dismiss or that were alleged in the operative Complaint. (*See, e.g., compare* ECF No. 53-1 at ¶¶ 20-36 *with* ECF No. 56 at ¶¶ 21-36 (adding fifteen new allegations concerning Techie Hosting, Inc.); *compare* ECF No. 53-1 at ¶¶ 33-36 *with* ECF No. 56 at 74-93 (adding nineteen new allegations concerning Techie Hosting, Inc. and Wayne Anastasia); *see also* ECF No. 56 at ¶¶ 99, 127-46 (entirely new allegations absent from both the Complaint and ECF 53-1); ECF No. 56 at ¶¶ 252-61 (same).)² These newly added, substantive August 27, 2023 allegations were not in redline. (*Id.*)

Accordingly, we ask the Court for direction on whether we should expend client resources in responding to this improper submission under the deadlines Your Honor recently imposed, (*see* ECF No. 55), or whether the Court would entertain striking the submission as improper and untimely and imposing a new scheduling order for these submissions.

¹ Defendants Rene Muijrers, ICONV SPRL, ViralHog, LLC, Ryan Bartholomew, Brent Maggio, and KMMT, LLC indicate they join in on this application.

² This is not a comprehensive list of examples.

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If Your Honor has any questions or concerns, please have Your Honor's Chambers contact us.

Respectfully,

/s/ Victor A. Afanador

Victor A. Afanador

SO ORDERED

s/James B. Clark

James B. Clark, U.S.M.J.

Date: 8/29/2023

VAA:cd
cc: All Counsel of Record (via ECF)

* By no later than September 1, 2023, plaintiff shall:

- 1) File a letter explaining plaintiff's failure to submit a red-lined version of its proposed Amended Complaint by the deadline set forth in the court's August 21, 2023 Order [pkt. No. 55].
- 2) File an amended cross-motion for leave to file an Amended Complaint which fully complies with the applicable Local Civil Rules. Should plaintiff fail to timely file a proper motion to amend, plaintiff's motion to amend may be denied as untimely and/or improper under the applicable Local Civil Rules.

* Defendants' deadline to file a reply/opposition to plaintiff's cross-motion to amend is stayed pending the filing of plaintiff's amended cross-motion.